

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4772 of 2019

Arising Out of PS. Case No.-25404 Year-2014 Thana- PATNA COMPLAINT CASE District-
Patna

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1. Newtech Residency Pvt. Ltd and Ors Through its Director Raushan Prakash Office at A-44, Gyandeep Apartment, Mayur Vihar, Phase No.-1, P.S Pandav Nagar, New Delhi-91
 2. Raushan Prakash Kumar Chandra Prakash Director, Newtech Residency Pvt.Ltd. Resident of A-44, Gyandeep Apartment Mayur Vihar Phase-1, P.S Pandav Nagar, New Delhi-91
 3. Sanjeev @ Sanjeev Kumar Sri Shambhu Nath Pandey Signatory of Cheque, of Newtech Residency pvt. Ltd. Resident of A-44, Gyandeep Apartment Mayur Vihar Phase-1, P.S.Pandav Nagar, New Delhi-91

... .. Petitioners

Versus

1. State Of Bihar
2. Sunil Kumar Dr. Kedar Nath Prasad Resident of Mohalla-Indrapuri, Road No.-1, P.O.-B.V. college, Near Samanpura State Boringh, P.S.-Shastri Nagar, Patna-14, Bihar

... .. Opposite Parties

Appearance :

For the Petitioners	:	Mr.Madan Prasad Singh No.2, Adv.
For the OP No. 2	:	Dr. Anand Kumar, Adv.
For the State	:	Mr.Sanjay Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 28-07-2026

Heard the parties.

2. This application is filed for quashing the order dated 19.04.2016 passed in complaint No.-25404 (c)/2014 by the Execution Munsif cum J.M. 1st Class Patna, whereby learned Magistrate has taken cognizance of offence U/s 420 of I.P.C. and U/s 138 of N.I. Act.

3. That on 28.02.14 the complainant, opposite party No.-2 filed a complaint petition in the court of C.J.M.,



Patna being complaint case no.-25404(C)/2014 with the following allegations:-

(i) The complainant executed sale deed in respect of 9.389 decimals of Land under registered deed dated 14.06.2013 for a consideration of Rs. 48,00,000/- (Forty eight lakh) to petitioner no.-1 through petitioner no.-2 and towards payment of consideration money for which 5 post dated cheques each of Rs. 9,60,000/-(Nine lakh sixty thousand were issued.)

(ii) That the post dated cheque no. 000138 dated 13.10.2013 of Bank of Baroda of Rs. 9,60,000/-(Nine Lakh Sixty thousand only) issued by the petitioner no.-3 was presented in the Bank, but the same was returned on 31.12.2013 without encashment.

(iii) It is further alleged that accused no.-2 being the Director of the company and Vendee of the sale deed and accused no.-3 being the authorised signatory of the company in collusion with each other committed the offence and they are vicariously liable for acts of the company, accused no.-1.



(iv) There after legal notice dated 20.01.14 was sent to accused no.-2 and 3 under registered posts which were delivered on 23.01.14, but the accused persons did not make payment within stipulated period of 15 days and even after request made by the complainant to accused no.-3, signatory of the cheque and as such they deliberately and intentionally committed offences U/s 406 and 420 of I.P.C. and U/s 138 of N.I. Act and as such they are liable to be convicted and sentenced for the said offences.

(v) It is further alleged that the complainant had already filed complaint case no.-3794 (c)/2013 in the court of C.J.M., Patna for dishonour of cheque no.-000134, which was transferred to the court of Md. Saleem, J. M. 1st Class, Patna, which was fixed argument on cognizance matter.

4. It is submitted by learned counsel for the petitioners' company that the company is a private limited company/ partnership firm which is engaged in purchase of land for building construction and marketing/sale of the same and is run by a group of directors. It is submitted by learned counsel for the petitioners' company that the



petitioners' company purchased the land from the opposite parties against a total consideration of Rs. 48 lakh for which, five different checks each of Rs. 9.60 lakh were issued with assurance endorsing the post-date, i.e. after the date of registration of the sale deed, which was executed on 14.06.2013. It is submitted that after executing sale deed, petitioners' company visited the site, but the local goons disturbed the company and its persons from taking possession and thereafter, it came into the knowledge of the petitioners' company that a proceeding under Section 144 of the CrPC is also pending against the land in issue, which is pending before court of Executive Magistrate, Patna City. Subsequently, upon joining the aforesaid proceeding, it came into the knowledge of the petitioners' company that a Title Suit is also pending against this land since 1986 which was registered as Title Suit No. 215 of 1986 before the Court of learned Sub-Judge, Patna City. It is pointed out that all aforesaid facts were not disclosed by O.P No. 2 to the petitioners-company while dealing with land and therefore, facing all such problems, the petitioners' company



sent a legal notice on 16.07.2013 (Annexure- P/4) to O.P. No.2, to settle the dispute, but same was completely overlooked. It is pointed out that in view of the same, the petitioners' company was not under the liabilities to pay the amount of the cheque to the O.P. No. 2 and therefore, the impugned cognizance order is fit to be set-aside/quashed.

5. By taking contrary note of the aforesaid submission, it is submitted by learned counsel, Dr. Anand Kumar, appearing on behalf of O.P. No. 2 that even through notice dated 16.07.2013 (Annexure- P/4), it was not requested by petitioners' company as not to deposit the post-dated cheques. It is pointed out that the pending litigation was well within the knowledge of the petitioners' company and the land was purchased knowing the pending litigation. It is submitted that local goons disturbed the petitioners' company and asked a ransom of Rs. 2 crore, for which the present litigation started. It is submitted that asking ransom money is completely different prosecutions, for which the opposite party no. 2 is of no concern.

6. Let it be so, as the presumption provisioned



under Section 139 of NI Act is available against petitioners and, moreover, the cheques were not asked to present before the bank in terms of legal notice dated 16.07.2013(Annexure- P/4), as sent by petitioners which were issued in furtherance of execution of the sale deed and moreover as all such issues which are raised by the petitioners can be ascertained during the trial only, being related with factual aspect, accordingly, this court could not find any good reasons to interfere with the impugned order.

7. Accordingly, the present quashing petition stands devoid of any merit and same stands dismissed.

8. Petitioner’s company is at liberty to raise all such issues before the trial court itself.

9. Let the copy of the judgment be sent to learned trial court forthwith, with TCR, if any.

(Chandra Shekhar Jha, J)

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AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	31.07.2026
Transmission Date	31.07.2026

